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TAGS: [PGOV](#) [PREL](#) [KDEM](#) [PHUM](#) [PINR](#) [BL](#)
SUBJECT: BOLIVIAN JUDICIARY CRUMPLES UNDER MAS ATTACK

REF: A. LA PAZ 715
[1](#)B. LA PAZ 600
[1](#)C. LA PAZ 593
[1](#)D. LA PAZ 469
[1](#)E. LA PAZ 65
[1](#)F. 08 LA PAZ 2464

Classified By: Charge d'Affaires John Creamer for reasons 1.4 (b, d)

[1](#)1. (C) Summary: Through a series of judicial maneuvers and pressure tactics reminiscent of their 2007 dismantling of the country's Constitutional Tribunal, Bolivian President Evo Morales and his ruling Movement Toward Socialism (MAS) party appear to be set on shutting down the Supreme Court until they can appoint new justices more to their liking. After an August 14 Court decision went against the government, the GOB called the decision "politically motivated" and announced plans to initiate a trial of responsibilities (i.e. impeachment proceedings) against seven justices who participated in the ruling. The justices will be suspended pending the trial's outcome, which will prevent the Court from forming a quorum and, more importantly, from reviewing the legality of Executive branch actions. End summary.

MAS Attacks Supreme Court Over Terrorism Case Ruling

[1](#)2. (SBU) President Morales and his ruling MAS party reacted angrily to an August 14 Supreme Court decision to grant jurisdiction over the much-publicized Eduardo Rozsa terrorism case (Reftels B, C) to the Santa Cruz District Court instead of the La Paz District Court, where the GOB holds more sway. Both district courts claimed jurisdiction in the case, with Santa Cruz noting the crime occurred in downtown Santa Cruz and La Paz referring to a recent presidential Supreme Decree, which directs that all terrorism-related cases be tried in La Paz district. As reported in local press, most legal experts agreed with the decision to grant jurisdiction to Santa Cruz.

[1](#)3. (SBU) Crying foul, a variety of Morales administration officials, including Vice President Alvaro Garcia Linera, said the Supreme Court's ruling was biased and designed to give impunity to the alleged terrorists. On August 17, Vice Minister for Government Coordination Sacha Llorenti announced that the government would open a "trial of responsibilities"

(i.e. impeachment proceedings) against all seven justices involved in the ruling. Vice Minister for Justice Cecilia Rocabado formally opened the case on August 25. The case will first be reviewed by the MAS-controlled lower house of Congress, which will vote whether to forward the case to the Senate for the formal trial.

¶4. (SBU) While similar trials of responsibility have not made it through the opposition-controlled Senate, they take many months to complete and leave the affected judges suspended for the duration of the trial. The Supreme Court was already functioning with only eight of 12 total positions, and two other impeachment proceedings against Supreme Court President Eddy Fernandez and Justice Rosario Canedo are underway. With this trial against the seven justices, the Supreme Court could effectively be shut down through the December 6 national elections.

¶5. (SBU) Meanwhile, on August 27, through a series of technical legal maneuvers, La Paz-based government investigator Marcelo Sosa managed to unwind the Santa Cruz' District Court's decision and re-open the investigation within the La Paz District Court's jurisdiction, handing the Morales administration a legal victory. Local press greeted the decision as ensuring any legal ruling in the Rozsa case would be in keeping with the Morales administration's preferences.

¶6. (C) Embassy legal contacts expressed uniformly criticized the government's actions. Former Constitutional Tribunal Magistrate Silvia Salame said the MAS was in the process of "a total destruction of the judiciary." She noted that the MAS used the same approach to "destroy" the Constitutional Tribunal starting in 2007. She said she and other judges had experienced direct pressure to change their rulings, including verbal warnings and physical attacks.

¶7. (C) Former National Electoral Court President Oscar Hassenteufel predicted that the Supreme Court would be shut down indefinitely until the GOB is able to pass legislation implementing the new Constitution, which will restructure the courts. Both Salame and Hassenteufel characterized this trial of responsibilities as a pretext to silence the Supreme Court, and speculated that more such trials would occur if necessary.

Attacks Only the Latest in a Series -----

¶8. (C) As Salame noted, two other parts of the judicial branch, the Constitutional Tribunal and the Judicial Council, are already essentially defunct. The MAS used a similar campaign of intimidation, salary cuts, and impeachment proceedings to reduce the Constitutional Tribunal from ten members to zero, ending with Salame's May 26 resignation (Reftels A, D-F). The Constitutional Tribunal now has a backlog of more than 4,000 cases. The Judicial Council is in a similar situation, with only one out of five members (and three needed for a quorum), a backlog of over 100 disciplinary cases, and a case pending against the sole remaining member initiated by the MAS-controlled lower house of Congress.

Comment -----

¶9. (C) It is difficult to disagree with Salame's warnings of a MAS plan to gain control of the judiciary. The MAS have characterized the judiciary as "last bastions of the old oligarchy" since their election in December 2005 and have made no secret of their desire to remove judges who disagree with the MAS political project. However, many Bolivians would not appear to mind such a change. According to a 2007 Transparency International survey, more than 80 percent of Bolivians surveyed believe the judicial system is corrupt. And change now seems inevitable. With the MAS likely to win

control of both houses of Congress in the upcoming national elections (and with it the ability to appoint a raft of new judges), they will be able to dramatically (and legally) change the judiciary's profile and outlook. End comment.
CREAMER